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IN THE MATTER OF THE GENERIC
PROCEEDING CONCERNING ELECTRIC
RESTRUCTURING ISSUES.

DOCKET NO. E-00000A-02-0051

DOCKET NO. E-00000A-01-0630

JOINT COMMENTS OF TUCSON
ELECTRIC POWER COMPANY
AND UNS ELECTRIC, INC.

Tucson Electric Power Company ("TEP" or the "Company") and UNS Electric, Inc. ("UNS Electric"), collectively the "Companies", through undersigned counsel, hereby file these joint comments in the matter of the generic proceedings concerning retail electric competition. Arizona Corporation Commission ("Commission") Staff requested that participants in the November 14, 2008 retail electric competition workshop file written comments on several topics related to retail competition on or before January 30, 2009.

I. General Comments.

The Commission recently approved TEP's Proposed Rate Settlement Agreement in Decision No. 70628 (December 1, 2008) ("Settlement Agreement"). The Settlement Agreement provided for the resolution of several key issues, including TEP's return to cost-of-service ratemaking. TEP intends to abide by, and comply with, the terms and conditions of the Settlement Agreement, and any discussion regarding retail electric competition must recognize the terms and conditions of that Agreement, including generation rates set on a cost-of-service basis for the next four years. While TEP's original rate case application did propose alternative methodologies to cost-of-service ratemaking for generation in the form of market and hybrid options, those options were deemed withdrawn by the Settlement Agreement upon approval by the Commission. Moreover, since the initial adoption of the current retail electric competition rules, the

1 Commission has adopted – or is in the process of adopting – other important policies regarding the
2 provision of electric service in Arizona, including the Renewable Energy Standard and Tariff
3 (“REST”), Demand-Side Management (“DSM”), Integrated Resource Planning (“IRP”) and energy
4 efficiency. Any analysis of retail competition must consider these important policies to ensure that
5 the desired outcomes and effects of retail competition do not conflict with or marginalize the
6 desired outcomes and effects of those policies.

7 **II. Specific Comments.**

8 While maintaining its intent to honor the terms of the Settlement Agreement, TEP’s and
9 UNS Electric’s comments in response to Commission Staff’s request are as follows:

10 **A. Potential Risks and benefits of retail electric competition.**

11 **(i) Difficulty in resource planning.**

12 If retail electric competition once again becomes a reality in Arizona, TEP will likely incur
13 great difficulty in the planning of its resources due in large part to potential customer migration; its
14 baseload generation resources may not efficiently match its system demand. Furthermore, the
15 costs of maintaining service in an excess supply will be passed on to the utilities remaining
16 Standard Offer customers.

17 **(ii) Consistency of Commission policies.**

18 The Commission has recently enacted specific policy goals regarding the REST, DSM,
19 energy efficiency and resource planning. Retail competition should not be allowed to undermine
20 the REST targets or put utilities at a disadvantage. By way of example, a competitive Energy
21 Service Provider (“ESP”) should not be allowed to provide generation without having a renewable
22 component; REST, DSM and energy efficiency obligations should be applied consistently to
23 competitive retail suppliers.

24 **(iii) Potentially inequitable cost shifting.**

25 An incentive may exist for customers to leave a utility’s system to avoid REST,
26 DSM and/or other surcharges. As Direct Access customers leave the company’s system, costs will
27 be shifted back to Standard Offer customers, including the costs for the development of renewable

1 and DSM projects, resulting in an inequitable distribution of the total renewable and DSM bill. If
2 there are any financial benefits to be gained from retail electric competition, the larger high-load
3 factor customers are usually the financial beneficiaries.

4 (iv) **Costs associated with re-implementing competition.**

5 Please see Section E. below for the Companies' projected costs related to re-implementing
6 competition.

7 **B. Public Interest.**

8 If the Commission's main objective in re-implementing retail electric competition is to
9 provide the lowest cost electric service possible to customers, it does not appear that retail
10 competition will meet that objective. In fact, as experienced in other states, retail competition has
11 failed to deliver reduced electricity costs for most retail customers. From this perspective alone,
12 retail competition does not appear to be in the public interest. However, there are other
13 considerations to contemplate in determining whether retail competition is in the public interest,
14 and understanding the Commission's goals for retail competition, particularly as they relate to
15 other Commission policy goals, would help address the public interest question.

16 **C. Provider of Last Resort.**

17 TEP and UNS Electric believe the core question of whether or not retail electric
18 competition is in the public interest needs to be adequately addressed prior to discussing the
19 specific policy issues such as the provider of last resort.

20 **D. Adequacy of the Current Electric Competition Rules.**

21 The current Commission-approved retail electric competition rules (to the extent they have
22 not been vacated by the courts) are obsolete. They simply do not reflect the change in electric
23 service policies since those rules were adopted.

24 Moreover, on a practical level, the original standards were created using Electronic Data
25 Interchange ("EDI") as the means to communicate data between providers. EDI has been replaced
26 by Extensible Markup Language ("XML") as the industry standard, and is thus no longer an
27 option. Additionally, TEP outsourced some of the process needed to communicate with the

1 providers, and this outsourced provider no longer supports the use of EDI or the systems created at
2 the start of Direct Access.

3 As discussed in more detail below, until the Companies understand what standards or
4 protocols would be used, the cost to re-establish Direct Access is difficult to estimate.
5 Specifically, the form of data transfer the Commission would authorize utilities to utilize in
6 communicating the necessary information to the providers, whether the data to be transferred
7 remains the same as initially established, and/or what the additional data requirements would be
8 must be understood.

9 **E. Costs of Competition.**

10 The Companies anticipate incurring incremental costs associated with restarting retail
11 competition if the Commission issued one or more Certificates of Convenience and Necessity
12 ("CC&N") for competitive electric providers in the Companies' service territories. In the last
13 eight years since retail competition was initiated, TEP has upgraded many of its information
14 technology systems. TEP did not modify the upgraded systems to accommodate Direct Access
15 since there were no Direct Access customers and the underlying data communication means had
16 become obsolete. To reinstitute Direct Access, many of the systems would have to be modified to
17 communicate the desired data in whatever protocol is established. This would likely be expensive
18 and would certainly take time. The Companies would need to acquire additional staff to support
19 all Direct Access functions; the amount of staff required would be dependent upon the level of
20 Direct Access activity.

21 **III. Conclusion.**

22 The Companies support the evaluation of retail competition, provided that any discussion
23 regarding retail electric competition recognizes the terms and conditions of TEP's Settlement
24 Agreement, addresses the other electric service policies of the Commission, and takes both the
25 costs and the benefits of retail competition into consideration.

1 RESPECTFULLY SUBMITTED this 30th day of January 2009.

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